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31 August 1955

Memorandum for: Deputy Director/Support

Subject: Proposed CIA Legislation

1. In 1954 the CIA Career Service Board made certain recommendations for the development of a career service in CIA. Of the recommendations made in this connection, that concerning job security of career employees and that concerning a civilian reserve program did not require legislation. The recommendation that CIA be exempted from the Performance Rating Act of 1950 has been accomplished by securing an exemption for CIA under Section 601(a) of P. L. 763 of the 83rd Congress. The recommendation that permanent Missing Persons legislation be secured to meet the continuing needs of the Agency is still in abeyance. The present Missing Persons Act has been extended to 1 July 1956 by P. L. 122 of the 84th Congress. A draft of permanent legislation in this field, prepared by the Department of Defense, has been pending for several years in the Bureau of the Budget and has now been cleared back to the Department of Defense with certain suggestions. It is intended that this draft will cover the needs of CIA and it will be available here in a few days for review.

2. The CIA Career Service Board recommended that legislation be secured liberalizing age and service credit requirements for Civil Service retirement. The entire retirement question was considered by the President's Committee on Retirement Policy for Federal Employees which submitted a voluminous report in 1954. As a result, a detailed bill on Federal employees' retirement has now been drafted and has been circulated to the various agencies of the Government for comment by the Bureau of the Budget. This bill is presently under study in the Offices of the General Counsel, Personnel and the Comptroller to see whether it adequately meets CIA's special needs, whether these needs can be met by suggested amendments to this draft, or whether it will be necessary to write special legislation into the CIA Act. The Career Council will consider this problem at its next meeting.

3. The remaining recommendations of the CIA Career Service Board dealt with limited medical benefits for dependents, death gratuities, educational allowances, and statutory home leave benefits. All of these benefits would require legislation, and a draft of such legislation is included herewith.

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4. On 21 June the DD/S held a meeting which included the Comptroller, the Director of Personnel, and the Acting General Counsel to consider an earlier draft of this proposed legislation. At that meeting it was determined, subject to the approval of the Director, that CIA should seek its own legislation on these matters, at least insofar as submitting it to the Bureau of the Budget was concerned, even though Government-wide legislation on the same point was in prospect or had already been submitted to the Congress. Particular reference was made to a statutory home leave bill presently pending in Congress and the proposed Overseas Allowances Act which has not yet been submitted.

5. In connection with legislation for educational allowances and for the transfer allowance secured by the Department of State in the Foreign Service Act Amendments of 1955, the Office of General Counsel felt that it would be preferable to write all of its allowance authorities into a revised Section 5(b) of the CIA Act of 1949 rather than to continue to incorporate by reference certain sections of the Foreign Service Act. This problem was highlighted by the Administration's suggested repeal of these particular sections of the Foreign Service Act in the proposed Overseas Allowances Act. This proposed revision of Section 5(b) is included in the attached legislation.

6. In addition to the recommendations of the CIA Career Service Board, we have also included drafts to cover certain other matters which need legislative attention which have been suggested by various components of the Agency. In addition, we have prepared detailed legislation covering procurement authorities which has been circulated separately.

7. It is requested that comments on this proposed legislation be returned to this office by close of business on 7 September.

/s/

Walter L. Pforzheimer
Legislative Counsel

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Section 1. The first sentence of Section 5(a) of the Act entitled the Central Intelligence Agency Act of 1949, approved June 20, 1949. (63 Stat.209; 50 U.S.C.403e), (hereinafter referred to as "such Act"), is amended by striking out "its territories, and possessions,".

ILLEGIB

JUSTIFICATION

The deletion of the words "its territories, and possessions," from Section 5(a) of the CIA Act of 1949 will enable CIA to equate certain benefits to its employees stationed in U. S. territories and possessions with those paid to CIA employees in foreign areas, and thus eliminate an unfair disparity. These benefits, not presently available to employees stationed in the territories and possessions, are largely in the field of allowances, and include quarters and transfer allowances, and shipment of privately-owned automobiles at Government expense.

For example, Okinawa is considered a foreign country for allowance purposes, whereas Saipan is considered a territory. Hawaii is also a territory, although the cost-of-living there is higher than in many foreign countries.

ILLEGIB

Section 2. Section 5(a)(1) of such Act is amended by inserting a semicolon in lieu of the period at the end of Section 5(a)(1)(F) and inserting a new subsection "(G)" which shall read as follows:

"(G) pay the travel expenses incurred by an officer or employee of the Agency who is assigned to a post outside the continental United States, in transporting dependents to and from United States ports of entry designated by the Agency, to obtain an American secondary or college education, not to exceed one trip each way for each dependent for the purpose of obtaining each type of education."

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JUSTIFICATION

This proposed section will extend to CIA employees the same authorities granted to members of the Foreign Service of the United States by P.L. 22 of the 84th Congress. It will permit payment of one trip to the United States and return to his parent's post abroad during high school, and another during college. The financial and morale problems which this section attempts to allay are obvious, particularly for those employees with more than one child of school age. The section will permit a child of Agency personnel to receive an American education on the one hand and maintain his ties with his family on the other. The cost of the education and the remaining travel will, of course, be borne by the individual or his parents, over and above the post educational allowance.

Section 3. Section 5(a)(3)(A) of such Act is amended to read as follows:

"(3)(A) Order to the United States or its territories and possessions on leave of absence as provided by law, every officer and employee of the Agency who was a resident of the United States or its territories and possessions at time of employment, upon completion of two years' continuous service abroad, or as soon as possible thereafter."

JUSTIFICATION

This section is required to bring the present section in line with current enactments and remove obsolete references. This section is necessary as authority to order Agency personnel to the United States on home leave upon completion of two years' continuous service abroad. The code citations in Section 5(a)(3)(A) as presently in effect have been repealed by the Annual and Sick Leave Act of 1951, which also made it impossible to comply with the present proviso in Section 5(a)(3)(A) in regard to leave accrual.

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Section 4. Section 5(a)(3) of such Act is amended by inserting at the end thereof a new subsection "(D)" which shall read as follows:

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"(D) The provisions of Section 203(f) of the Act of October 30, 1951, (65 Stat. 679; 5 U.S.C. 2062(f), and as may hereafter be amended, shall be applicable to officers and employees of the Agency, and such officers and employees shall be subject to the limitations as to the accumulation of leave applicable to officers and employees in the Foreign Service of the United States under the Department of State as provided in Section 203(d) of the Act of October 30, 1951 (65 Stat. 679; 5 U.S.C. 2062(d)), and as may hereafter be amended."

JUSTIFICATION

This section will extend the statutory home leave provisions of the Annual and Sick Leave Act of 1951 to CIA employees stationed overseas. The statutory home leave provisions are applicable under present law to members of the Foreign Service and provide home leave at a rate equivalent to one week of home leave for each four months of service outside the United States in addition to the regular annual leave. Because of the grant of statutory home leave to members of the Foreign Service, the Annual and Sick Leave Act of 1951 provides a maximum accumulation of sixty days of annual leave for members of the Foreign Service, in lieu of the ninety days accumulation authorized for other Government personnel stationed overseas. It is felt that the limitation of accumulation applicable to those granted statutory home leave should also apply to CIA employees on foreign assignment.

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Section 5. Section 5(a)(5)(A) of such Act is amended to read as follows:

"(5)(A) In the event of illness or injury, incurred while on assignment outside the continental United States, requiring the hospitalization of an officer or full time employee of the Agency or of a member of the family accompanying such officer or employee on such assignment, not the result of vicious habits, intemperance, or misconduct on the part of such persons, in a locality where there does not exist a suitable hospital or clinic, pay the travel expenses of such officer or employee, or member of the family, by whatever means are considered appropriate and without regard to the Standardized Government Travel Regulations and Section 10 of the Act of March 3, 1933 (47 Stat. 1516; 5 U.S.C. 736), to the nearest locality where a suitable hospital or clinic exists and on the recovery of such individual pay for the travel expenses of return to the post of duty of such officer or employee. If such officer or employee or member of the family is too ill to travel unattended, the Agency may also pay the travel expenses of an attendant;"

JUSTIFICATION

The justification for this provision is contained in Tab A-2 of the Memorandum for the Director of Central Intelligence, Subject: Career Service Legislation, dated 13 January 1954.

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Section 6. Section 5(a)(5)(C) of such Act is amended to read as follows:

"(5)(C) In the event of illness or injury requiring the hospitalization, not the result of vicious habits, intemperance, or misconduct on the part of such persons, pay for the cost of treatment of such illness or injury at a suitable hospital or clinic, where such illness or injury is incurred --

- (i) in the line of duty by an officer or full time employee of the Agency while such person is assigned outside the continental United States, or
- (ii) by a member of the family accompanying such officer or employee on assignment outside the continental United States, where such illness or injury occurs through circumstances directly related to the duties or duty station of such officer or employee."

JUSTIFICATION

The justification for this provision is contained in Tab A-2 of the Memorandum for the Director of Central Intelligence, Subject: Career Service Legislation, dated 13 January 1954.

Section 7. Section 5(a)(5)(D) of such Act is amended by inserting "and their dependents" after the word "Agency" and again immediately before the period at the end of the Section.

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JUSTIFICATION

Section 5(a)(5)(D), as presently worded, grants substantially the same authorities providing physical examinations and inoculations to Agency employees as were granted to employees of the Foreign Service under Section 913 of the Foreign Service Act of 1946. Section 12 of the Foreign Service Act Amendments of 1955 extends these authorities to dependents of members of the Foreign Service, and the proposed amendment to Section 5(a)(5)(D) similarly extends CIA's authority in this connection to the dependents of its personnel. This is done in recognition of the practical and important consideration that health problems of the various members of an employee's family can have upon the employee's job performance and assignment. Pre-employment and preassignment examination of dependents could prevent many of these problems by avoiding the assignment of personnel with dependents who may become medical liabilities.

Section 8. Section 5(a) of such Act is amended by inserting at the end thereof a new subsection "(8)" which shall read as follows:

"(8) Subsections (5)(A), (5)(C), (5)(D), and (6) of this Section are also applicable to officers and employees of the Agency assigned to temporary duty outside the continental United States."

JUSTIFICATION

This new provision will allow the extension of certain medical benefits to CIA employees who are assigned abroad on temporary duty on the same basis as to those on permanent duty. The possibility of line of duty illness or injury is equal in both cases. It will also provide for the Agency to pay the cost of preparing and transporting the remains of a CIA employee who dies while on temporary duty status abroad, as is presently provided for those who die while on permanent duty overseas.

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Section 9. Section 5(b) of such Act is amended by striking out all of the words of the section after the word "Agency" and inserting in lieu thereof the following:

"(1) allowances, wherever Government owned or rented quarters are not available, for living quarters, heat, light, water, fuel, gas, and electricity, including allowances for the cost of lodging at temporary quarters, incurred by an officer or employee of the Agency and the members of his family upon first arrival at a new post, for a period not in excess of three months after such first arrival or until the occupation of residence quarters, whichever period shall be shorter, up to but not in excess of the aggregate amount of the per diem that would be allowable to such officer or employee for himself and the members of his family for such period if they were in travel status;

(2) cost-of-living allowances, whenever--

(A) the cost of living at a post abroad is proportionately so high that an allowance is necessary to enable an officer or employee of the Agency at such post to carry on his work efficiently;

(B) extraordinary and necessary expenses, not otherwise compensated for, are incurred by an officer or employee of the Agency incident to the establishment of his residence at any post of assignment abroad or at a post of assignment in the continental United States between assignments to posts abroad;

(C) an allowance is necessary to assist an officer or employee of the Agency who is compelled by reason of dangerous, notably unhealthful, or excessively adverse living conditions at his post abroad or for the convenience of the Government to meet the additional expense of maintaining his wife and minor children elsewhere than in the country of his assignment;

(D) extraordinary and necessary expenses, not otherwise compensated for, must be incurred by an officer or employee of the Agency, by reason of his service abroad, in providing for adequate elementary and secondary education for his dependents; allowances under this subparagraph for any post shall not exceed the cost of obtaining such educational services as are ordinarily provided without charge by the public schools of the United States plus, in those cases where adequate schools are not available at the post, board and room, and periodic transportation between the post and the nearest locality where adequate schools are available; if any such officer or employee employs a less expensive method of providing such education, any allowance paid to him shall be reduced accordingly; no allowance shall be paid under this subparagraph for a dependent for whom a travel allowance has been paid under subsection 5(a)(1)(G);".

JUSTIFICATION

Originally sections 901(1) and 901(2) of the Foreign Service Act of 1946 were incorporated by reference into Section 5(b) of the Central Intelligence Agency Act of 1949. In order for CIA to take permanent advantage of the transfer and educational allowances granted to the Foreign Service by the amendments to Section 901(2) in the Foreign Service Act Amendments of 1955, it was felt that we would probably have to amend section 5(b) of the CIA Act. In addition, there is a possibility that the proposed Overseas Allowances Act will repeal Section 901 of the Foreign Service Act. Therefore, it is suggested that we write our own allowances authority into Section 5(b) of the Central Intelligence Agency Act of 1949. In doing so, we have generally followed the model of the Foreign Service Act rather than the proposed Overseas Allowances Act. This section includes the proposed educational allowance suggested by the Career Council, as well as the transfer allowance noted above. It has been determined not to recommend a representation allowance for CIA, but to continue to handle this problem as heretofore.

Section 10. Section 5 of such Act is amended by inserting at the end thereof a new subsection "(c)" which shall read as follows:

"(c)(1) Under such regulations as the Director may prescribe, the Agency shall pay the sum of \$1,000.00 as a death gratuity immediately upon official notification of the death of any officer or employee of the Agency: Provided, That such death is not the result of vicious habits, intemperance, or misconduct of the deceased. The payment of the death gratuity authorized by this subsection shall be in addition to such other benefits as the dependents or the estate of the deceased may be entitled under any other provision of law.

(2) The death gratuity authorized by this subsection shall be paid to or for the living survivor or survivors of the deceased officer or employee first listed below:

- (A) Surviving spouse.
- (B) Children (without regard to their age or marital status) in equal shares.
- (C) Any dependent or dependents of the deceased in equal shares.
- (D) Parents or brothers or sisters (including those of the half blood and those through adoption), when designated by the deceased.

(E) Parents in equal shares.

(F) Brothers and sisters (including those of the half blood and those through adoption) in equal shares.

(3) If a survivor dies before receiving the amount to which entitled under this subsection, such amount shall be paid to the then living survivor or survivors first listed under subsection (c)(2).

(4) The payments made under the provisions of this subsection shall not be assignable, shall be exempt from taxation, shall be exempt from the claims of creditors, including any claim of the United States (except as provided in Section 3 of the Act of August 12, 1935 (38 U.S.C., Sec. 454(a)), and shall not be subject to attachment, levy, or seizure by or under any legal or equitable process whatever either before or after receipt by the payee.

(5) (A) No certifying or disbursing officer shall be liable for any amounts erroneously paid or overpaid under this subsection to a surviving spouse or children in the absence of fraud, gross negligence, or criminality on the part of such officer.

(B) The Director may waive the recovery of any such erroneous payments or overpayments when such recovery would be against equity and good conscience.

(C) The Director shall have the right to determine cases of alleged misconduct or dependency for the purposes of payments under this subsection, and his determination of any matter pertaining to such payments shall be final and conclusive upon the accounting officers of the Government.

JUSTIFICATION

This provision will authorize CIA to pay a death gratuity of \$1,000 to the survivor of an Agency employee, immediately upon official notification of death. The gratuity will not be paid if the death was due to the misconduct of the deceased. Because this payment will be contingent solely upon death, it should be in addition to, and not an alternative to, such other benefits as the dependents or the estate of the decedent may be entitled under any other provisions of law.

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The need for such a payment arises from the unusual security requirements imposed upon Agency personnel, which in turn cause certain inequities to the survivors by causing delays in receiving the monetary benefits to which such survivors would normally be entitled.

Acquisition of existing death benefits, provided by the Civil Service Retirement Act of 1920, as amended, by the Federal Employees Compensation Act of 1916, as amended, and by commercial insurance, is contingent upon compliance with certain administrative requirements. The primary purpose of the Retirement Act is to supply a subsistence fund over a period of years, and not to alleviate the immediate financial burdens attendant upon the death of a breadwinner. The death gratuity is aimed at the latter. In normal Government employment, the facts and records necessary to effect fairly rapid payment of claims or benefits may be made available by the agencies concerned. In the case of CIA, security factors often cause inordinate but unavoidable delays to arise in the acquisition, processing, and review of data required to prove the claims. In some cases, the CIA employment is so sensitive, that it is impossible to substantiate the claims to the Civil Service Commission or Bureau of Employees' Compensation without jeopardizing intelligence sources. As a result, the survivors of CIA employees are often at a disadvantage, particularly during the period immediately following the employees' death, when ready cash is urgently needed to tide over current and accrued obligations and meet emergency needs.

A survey of CIA death cases in 1952-1953 indicates that the settlement of decedent's accounts with the Agency has taken from 1 to 10 months, with the average running approximately 3-1/2 months. These leave records and financial accounts must be settled before a claim for benefits may be submitted. Delays have been particularly apparent in connection with accounts which must be returned from overseas.

Precedent for the payment of death gratuities exists in the military services, which have been authorized to pay a death gratuity since 1908. This gratuity consists of an amount equal to six months' pay at the rate received by the officer or enlisted man at time of death.

During the past three years, approximately 18 employees have died each year. This would represent an average yearly cost of \$18,000 to the Agency. The cost of administering this program would be negligible, as death gratuity payments would involve a minimum of administrative procedures.

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Attention is invited to H.R. 7089, a bill to provide benefits for the survivors of servicemen and veterans, which passed the House on 13 July 1955 and is now pending in the Senate. Title III of this bill provides death gratuity benefits upon official notification of the death of a member of the uniformed service (including the Coast Guard, officers of the Coast and Geodetic Survey and the Public Health Service). The gratuity provided shall equal six months' basic pay (plus special and incentive pays) at the rate received by the deceased at death, but shall not be less than \$800 nor more than \$3,000.

H.R. 7089 provides that this payment will be paid in all death cases of members of the uniformed service except where death was the result of lawful punishment. The House Select Committee on Survivor Benefits studied these problems for almost two years. It concluded in its Report (No. 993, Part 1) that present limitations and standards of "line of duty", "willful misconduct", or "disease limitations" require a process of adjudication in each case, and that these requirements tend to cause delay in the payment of the death gratuity to survivors. In the interest of speeding up this emergency payment, the Committee has eliminated this phase of the adjudication process. It is recommended that CIA give consideration to following these precedents as to the amount of the payment and the waiver of requirements.

Section 11. Section 6(f)(1) of such Act is amended by striking out "fifteen" and inserting in lieu thereof the following: "_____".

JUSTIFICATION

This amendment is designed to raise the number of retired officer which, because of other statutory limitations, can be hired only through special statutory authorization from the present number of 15 to an as yet undetermined number. This number should be determined by the Office of Personnel after appropriate coordination.

Section 12. Section 6 of such Act is amended by the insertion of a semicolon in lieu of the period at the end of subsection "(f)" and by the addition of a new subsection "(g)" which shall read as follows:

"(g) Make payments without regard to section 3648 of the Revised Statutes (31 U.S.C. 529), when made--

(1) in compliance with the laws of foreign countries or their ministerial regulations, and

(2) for rent in such countries for such period as may be necessary to accord with local custom.

JUSTIFICATION

Section 3648 of the Revised Statutes provides that there shall be no advance of public money unless authorized by the appropriation concerned or by law, or by certain stated exceptions in Section 3648, which provides further that in contracts for the performance of services or the delivery of articles of any description for the use of the United States, payment shall not exceed the value of such service or article delivered previously to such payment. This provision works a hardship in certain foreign countries, whose laws or customs require advance payments, particularly of rent. Exceptions to this provision of law are granted for payments made for the Bureau of Customs in foreign countries (31 U.S.C. 529 b), for the enforcement of customs and narcotics laws (31 U. S. C. 529 f), the Office of Scientific Research and Development (31 U.S.C. 529 h), for advance payments of office rent in foreign countries by the Bureau of Foreign and Domestic Commerce, and in other instances. The CIA Comptroller requests that similar exemption be considered for the Agency.

Section 13. Section 10(a)(1) of such Act is amended by inserting "Chapter 171 of" immediately before "28 U.S.C.".

JUSTIFICATION

This provision corrects a typographical error in Section 10 (a)(1) of the Central Intelligence Agency Act of 1949. The authority which was intended to be granted by this clause was the authority to pay claims under the Federal Tort Claims Act (Chapter 171), but the Chapter was omitted from the final printed versions of the bill as passed.

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Section 14. Section 102(a) of the National Security Act of 1947, as amended, is amended by renumbering said section as "Section 102 (a)(1)" and by the addition of a subsection "(2)" which shall read as follows:

(2)(A) The Director of Central Intelligence is authorized to appoint not to exceed six Deputy Directors of the Central Intelligence Agency. Each such Deputy Director shall perform such functions as the Director of Central Intelligence may from time to time prescribe, and each shall receive compensation at the rate prescribed by law for Assistant Secretaries of executive departments.

(B) One of the Deputy Directors of the Central Intelligence Agency authorized to be appointed under subsection 2(A) of this section shall serve as the General Counsel of the Central Intelligence Agency and shall be the chief legal officer of the Agency.

(C) If a commissioned officer of the armed services is appointed to a position authorized by subsection 2(A) of this section, the provisions of Section 102(b) of the National Security Act of 1947, as amended, shall apply to such officer.

JUSTIFICATION

This provision would create six statutory Deputy Directors of the Central Intelligence Agency, in addition to the Director and Deputy Director of Central Intelligence. The latter positions are presently established under Section 102(a) of the National Security Act of 1947 and the compensation for such positions are contained in the Executive Pay Act of 1949, as amended.

It is the opinion of the General Counsel that these six positions, with compensation at the level of Assistant Secretaries of the executive departments, can be established without legislation under the Director's present statutory authorities. However, for policy reasons, it is being included in the present program for possible consideration of the Bureau of the Budget.

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